

Executive Committee Conference Call Minutes
April 8, 2005 Meeting
(Minutes recorded and submitted by Goldie Caughlan, NOSB Secretary)

NOSB Executive Members: James Riddle, Kevin O'Rell, Goldie Caughlan, Andrea Caroe, George Siemon, Gerald Davis, and Dave Carter. (Julie Weisman, NOSB member, sat in on the call).

NOP Staff: Barbara Robinson, Arthur Neal and Demaris Wilson (in for Katherine Benham)

1. **Call to Order:** JR called the meeting to order at 11:15 EDT.
2. **Announcements:** JR announced that as a budgetary move, effective April 15, 2005, the Missouri State Organic Certification Program will cease operations.
3. **Review and Minutes Approval:** JR asked for any additions or changes to agenda. None voiced. GC moved approval of January EC Minutes. JR and AC each offered minor corrections. AC seconded the motion to accept, and the January Minutes were unanimously accepted. November and December minutes are missing. GC stated she was absent from November meeting, and that Katherine Benham (now on sick leave) has a tape, apparently as yet not transcribed). December minutes were submitted, but no comments have been received back from NOP.
4. **NOP Update:**
 - a. BR announced that, effective April 4, Richard Mathews has taken a different position with USDA, and will no longer be working with NOP. BR is Acting Associate Deputy Administrator for NOP as well as Deputy Administrator for Marketing. She explained that staffing is currently challenging, since NOP has received a large amount of FOIA requests currently. These are time sensitive and labor intensive, and staff time has to be prioritized to handle them.
 - b. **Federal Register Notices:** AN will report, later in meeting.
 - c. **Collaboration document:** Basically, OGC had informally indicated that what was being proposed would not have been acceptable, so BR withdrew it. She believes there are essentially two options open to the NOSB, namely: NOP could issue a letter on letterhead confirming determination to continue to have a strong working relationship as developed and agreed to over the past 10 months. Another option is if OFPA were to be reopened NOSB could possibly be redefined as a "corporation" in which case possibly congress might agree to vesting NOSB with authority it does not now have. This is similar to the Federal Crop Insurance model. In some cases, such entities even have separate budgets and hire staff. However, the bottom line is that NOSB is an advisory board, subject to all the requirements and restrictions covered under FACA and subject to the "Sunshine" act, so that NOSB input can be sought on anything, but always must be in an open and public meeting.

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BR therefore proposed a letter expressing collaboration, but which will continue to be informal. She added that JR has double-checked on her information, directly with OGC and he can add his comments after she is finished with this report.

JR responded that earlier he had not fully understood what were the legal objections to having a framework for collaboration put in writing, but he does now. He also stated that when OGC staff returned his call, he had described our Board Policy Manual (BPM) and the many different frameworks incorporated in that, outlining our internal procedures, and basically how we interface with the NOP. He had explained to the OGC staff that while not a legally binding document, per se, nevertheless the BPM does set forth internal policies and procedures. He asked the OGC staff whether they could see any potential legal objections to having more descriptions in terms of the framework, the interface, of how NOSB communicates and cooperates with the NOP incorporated in the BPM. The OGC staff said there appeared to be none, and would like to take a look at it because it does have the FACA oversight. JR acknowledged that NOSB must operate within the law, and abide fully with FACA, but that the NOSB wants something on paper for the record -- not just for this board but particularly for the benefit of future NOS Boards, to clarify how NOP and NOSB work together. The NOSB would like to have the collaboration document in the board manual.

BR suggested inserting into the BPM. Future Secretaries [of Agriculture] may change things, but what you have there is a reflection of what we have done since last fall so why not put it in the BPM?

JR stated that it would be the perfect solution. DC, as Policy Development Chair, what is your opinion? (Note: at this point it was determined that DC had temporarily lost telephone contact. He returned to the call later, and the issue is reflected further on, in these minutes)

- d. BR: (continuing her report). The NOP's Response to **Rescinded Directives** should be finished within two weeks.
- e. **Executive Director Job Announcement:** Will hopefully be ready by May.
- f. **Harvey v. Veneman lawsuit developments:** BR has nothing new to report; waiting for the court order, now that the appeals court issued the Errata stating the ruling didn't apply to made-with products. (DC re-joined the conference call).
- g. **August Meeting Date:** The only person who did not respond is Rose. Hue had earlier said he's okay for August 15, 16 and 17, however, Rose has indicated that is the week school starts for kids in Florida. However, since no one is available prior to the August 15, the 15th to 18th looks like what it will be, because we have to set it now, today.

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Item B from agenda, Federal Register Notices: AN stated that the Federal Register Sunset Docket for livestock and crops is progressing toward re-submission (but progress slowed down by the FOIA priorities explained by BR, earlier).

- h. **Task Force Formation:** Regarding progress on the task forces, KJ, and AN are working on it. The NOP will work with Livestock and Handling Committees, and will recommend to them the list of individuals to be seated on the Pet Food and Seafood TFs. The Committees will respond, and then NOP will contact the nominees formally.

AC: regarding of selection of TF members, how are they chosen, how is it handled? Obviously, there cannot be bias, the TFs, must be independent, so what would either qualify or negate a selection?

AN: If we had too many applicants, we would select for balance with respect to diversity, expertise, and so forth. JR: So you do foresee there is an existing balance of expertise then. AN: At this point, I have no comment, because I still need to talk to KJ. In addition, there will be a couple of board members sitting in on them too.

JR: Regarding sunset review, what is the status? AN: Again, the problem in progressing is primarily because of FOIA. BR: Additionally we needed to revisit the issue because of the Harvey lawsuit, and not knowing what may be affected ultimately.

A discussion ensued briefly regarding continuing concerns for board turnover. BR commented that in fact, it is typical that about a third of the seats on most fed boards are turned over each year. Moreover, the fact is, there is no way to change things now, or to stagger timelines, no way except to go in and change the OFPA.

JR updated DC regarding the earlier discussion concerning the Collaboration Document, while DC was off the telephone. He asked DC if he would add the CD to the work plan of the Policy Committee, to reshape the document for inclusion in the BPM. DC agreed, and BR stated she would work with the PC and check it over.

5. Policy Development Committee drafts report

- a. DC reported that because the March 25 EB meeting was cancelled, and facing an April 4 deadline for submission of Good Guidance Practices, it was circulated to all, and as chair, he submitted it prior to the April 4 deadline.
- b. The discussion later today in the PDC meeting will concern the AAPFCO draft letter, and the committee will work on responding to the AAPFCO proposal regarding achieving a uniform interpretation of policies. DC discussed the issues with OTA, JR and Emily Brown Rosen, and the major concern right now is with the proposed redefinitions. Michael Norman in his testimony at our last Board meeting,

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in February, strongly requested response and input from the NOSB. We need direction, however, as to how best to proceed, i.e., whether we should send a letter directly from NOSB or draft it to come from NOP or how to proceed. They need a response before April 21, 2005.

BR suggested NOSB should send a letter, because if NOP is doing it, it will not make the clearance date. The letter will state that it is written by and from the Executive Board; AN interjects that that exceeds authority. BR still says "no problem" if it is clear that it is all of us, writing as NOSB members - and as members of the organic community -- and that we write to represent the consensus of interests. Another way is for JR to send it as Board Chair. However, it gets our points across, to raise their level of awareness of concern from the community. JR re-emphasized that this situation is in response to a request, from them, asking our input. BR says to send copy to Mike Norman when we do the letter too. DC agreed to redraft the first paragraph of the letter, and re-circulate it. It will come from JR as Chair, and whoever wants to sign off, can. whoever wants to can sign-on.

- c. **Board's Appointment Rotation Plan report back.** DC stated it was voted by the policy committee and we wanted it, but BR points out, we have no authority. GD: I had even volunteered that I was willing to accept a shortened term, and resign or whatever to try to get things back on a better rotation track. JR: a member can resign at any time, yes. KO: there is a risk in that, however, because it could just be held over, the seat, for appointment with the next group.

6. Committee Reports:

- a. **Livestock:** GS, chair is absent. JR and DC as committee members reported that livestock has not met. Mike has agreed to serve as the next Livestock Chair, however, and (because GS is leaving the board next January) it might be good to proceed with that change of position. The committee will need to address aquatic animals' standards. In addition, the Pasture Guidance is now posted for public comment through May 20. We need to remind the organic community to get written comments in on time.
- b. **Crops:** GD sitting in for NO, who is absent, reports that the Crops committee has not met, but has agreed that Gerald will be the Vice Chair, although that is still unofficial, since there has been no crops meeting to finalize it. JR advised the Crops members to keep on track with the work plan in any event, with the August meeting in mind.
- c. **Handling:** KO reported that he spoke with RK, Materials Chair, regarding how to coordinate the synthetics issue between two committees. Priorities will be synthetics, agriculture vs. non-agriculture, and additionally working with the Accreditation committee on the Q and A for the Retailer Certification question. AC: I'll need guidelines on that Q and A, to pass it on to the committee. Handling has an

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April 20 meeting, and we're hoping to set several future calls at that time. JR: Great, then as soon as possible, circulate your work to the rest of board, for postings and so forth, because those issues need lots of time for public comments, especially the agriculture vs. non-agriculture issue, prior to the August meeting.

- d. **Materials:** Chair RK was absent. AN stated that two weeks ago he sent the full board a draft of a technical report on Chitosan. Based on the procedures now for materials review. NOSB members need to submit, through Rose, any comments on the reports adequacy, and it needs to be by whatever date it said in the e-mail, about 11 April. AN comments he feels the report is fairly well put together, reads smoothly, coherent, easy to understand - but if we desire more information or detail or whatever, this being a first, we really need to make it a priority to give detailed feedback. GD: I have some questions about the material, and I will remember that for the full discussion, but felt basically it was fairly good. The "use rate" per acre, versus what conventional industry has used - that's important, because these materials have an acquired immune response which causes plants to exhibit immunity to fungi, and to attack them. So - if the report could clarify those points - re: adjuvant vs. use in the non-organic world, that is important. AN: Yes, however remember it was only petitioned as an adjuvant. JR: Great, and Gerry, if you could follow through with that it would be very helpful to everyone. GC: I'll send that later today then, to AN.
- e. AN: They could list it as polyglucosamine, but Chitosan is the common name - and to keep out of confusion we should include the chemical name, not just the common name, e. Accreditation: Chair, AC, reported that the Q & A regarding Retailer Certification on private label products issue is being worked on. She will take the lead on that, work with KO as to how best to work with Handling's review of the issue. She will discuss it with the Accreditation Committee on the next call. In addition, regarding the ANSI report and procedure, Mike has agreed to take the lead on that issue, coming up with core principals to bring back to the committee and put meat on the skeleton to bring a recommendation back to the full Board at the August meeting.

JR reports he spoke with Mark Bradley on the telephone last week regarding the ANSI issue, and he is drafting a follow-up to the ANSI report. It would be good for Mike to also touchbase with Mark Bradley on this. AC: I'll pass that on to Mike. AN: That should really be both Mark and Keith Jones as well. JR stated he will send a memo to Mike, and will copy AC.

7. Next EC meeting. Thursday, May 26 at 11:00 EDT.
8. Adjournment: AC moved adjournment, DC seconded, and the meeting unanimously was declared adjourned at 12:20 EDT.

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(Agenda for today's call is appended below)

NOSB EC meeting April 8, 2005

1. Approve agenda
2. Announcements
 - Missouri discontinues organic certification program effective April 15 - Jim
 - Others?
3. Approve EC minutes (Goldie sent attached draft 1/24/05 minutes on 3/24/05)
4. NOP update
 - a. Staff changes
 - b. Federal Register notices
 - c. Collaboration document
 - d. Response to rescinded directives
 - e. Executive director job posting
 - f. Harvey lawsuit developments
 - g. NOSB August meeting dates
 - h. Formation of task forces
5. Policy Development Committee drafts - Dave
 - a. Comments of Good Guidance Practices notice - submitted
 - b. Comments to AAPFCO
 - c. Board appointment rotation plan - input submitted
6. Committee reports
 - a. Livestock - George
 - b. Crops - Nancy
 - c. Handling - Kevin
 - d. Materials - Rose
 - e. Accreditation - Andrea
7. Set next EC meeting
8. Other business
9. Adjourn